

REMARKS

This is in response to the Official Action currently outstanding with regard to the present application, which Official Action the Examiner has designated as being FINAL.

Claims 2, 4-15, 17, 18 and 20-45 were pending in this application at the time of the issuance of the currently outstanding FINAL Official Action. By the foregoing Amendment, Applicant respectfully proposes that Claims 23, 42 and 44 be canceled, without prejudice. Further, Applicant proposes that Claims 24, 43 and 45 be rewritten in independent form. In so doing, Applicant also proposes that the dependency relationship previously stated in Claim 43 be changed to Claim 21 prior to the rewriting of Claim 43, and that the previously stated dependency relationship of Claim 44 be changed to Claim 22 prior to the rewriting of Claim 45. The latter corrections will conform Claims 43-45 to the intent of the Amendment of 10 July 2007 (see page 41, last 3 lines of second paragraph). Applicant does not propose the addition or the withdrawal of any claims by the foregoing Amendment. Therefore, in the event that the Examiner grants entry to the foregoing Amendment, Claims 2, 4-15, 17-18, 20-41, 43 and 45 as hereinabove amended, will constitute the claims under active prosecution in this application.

The claims of this application as they will appear in the event that the Examiner grants the entry of the foregoing Amendment are reproduced above including appropriate status identifiers and showing the Amendments made as required by the Rules.

More particularly, in the currently outstanding Official Action the Examiner has:

1. Failed to re-acknowledged Applicants' claim for foreign priority under 35 USC §119 (a)-(d) or (f), and to reconfirm the receipt of the required copies of the priority documents by the United States Patent and Trademark Office – **Applicant respectfully notes that the Examiner acknowledged Applicants' claim for foreign priority and the receipt of the required copy of the priority document for this application in the Official Action in this application dated 12 April 2007;**

2. Failed to again indicate that the drawings filed as part of this application on 19 May 2005 have been accepted – **Applicant respectfully notes that the Examiner previously accepted the drawings currently on file in this application in the Official Action in this application dated 12 April 2007;**
3. Failed to confirm the receipt by the United States Patent and Trademark Office of Applicants' Information Disclosure Statement of 15 August 2007 by providing Applicant with signed, dated and initialed copy of the Form PTO/SB/08a/b that accompanied that Statement in confirmation of the consideration of the art listed therein by the Examiner – **Applicant respectfully notes that its Information Disclosure Statement of 15 August 2007 in this application was filed after the mailing date of the present FINAL Official Action. Accordingly, Applicant respectfully requests appropriate acknowledgement of that Information Disclosure Statement as part of the next communication from the Office regarding this application.**
4. Rejected Claims 43 and 45 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention because there is insufficient antecedent basis for the terminology utilized therein.
5. Rejected Claims 23, 42 and 44 under 35 USC 101 because the claimed invention is directed to non-statutory subject matter, namely a “program” *per se*
6. Indicated that Claims 2, 4-15, 17, 18, 20-22 and 24-41 stand allowed for the reasons stated in the currently outstanding FINAL Official Action.

Further comment regarding items 1-3 and 6 above is not deemed to be required in these Remarks.

With regard to items 4 and 5 above, Applicants respectfully note that Claims 42 and 44 were intended in the next previous Amendment to be “program claims similar to Claim 23 but directed to the subject matter of Claims 21 and 22 respectively (See Amendment of 10 July 2007 at the last 3 lines of the second paragraph of page 41). Applicant by the foregoing Amendment has proposed that Claims 23, 42 and 44 be canceled, without prejudice, and believes that if entered that Amendment would overcome the Examiner’s rejections under 35 USC 101.

As to the Examiner’s rejections of Claims 43 and 45, Applicants suspect that the Examiner intended to reject Claim 24 as well at least in view of its dependence upon a rejected base claim, i.e., Claim 23. In any event, by the foregoing Amendment Applicant proposes that Claims 24, 43 and 45 be rewritten in independent form as:

A computer-readable storage medium having
recorded thereon a program for causing a
computer to function as a reproducing apparatus
for performing a reproducing method comprising
the steps of:.....

wherein the colon is followed by the wording of Claims 20, 21 and 22 respectively, so as to present Claims 24, 43 and 45 in independent form.

Applicant respectfully submits that the latter Claims are directed to appropriate statutory subject matter, i.e., computer readable storage media that contains a program that functionally causes a computer to carry out the defined steps of a specified method for reproducing stored information.


Thus, Applicant respectfully submits that proposed amended Claims 24, 43 and 45 claim a tangible computer readable medium encoded with a data structure that defines structural and functional interrelationships between the data structure and the computer hardware components which permit the data structure's functionality to be recognized in accordance with the Examiner's statement of what would constitute appropriate statutory subject matter for inclusion in the present application.

Accordingly, since the claims rejected by the Examiner in the currently outstanding FINAL Official Action have been either canceled, without prejudice, or amended so as to conform with the Examiner's definitions of appropriate statutory subject matter, Applicant respectfully submits that in the event that the Examiner grants entry to the foregoing Amendment this application will be placed into condition for allowance as required by 37 CFR 1.116. Therefore, reconsideration, entry of the foregoing proposed Amendment and a decision allowing this application as so amended in response to this communication is respectfully requested.

Applicants also believe that additional fees beyond those submitted herewith are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. 04-1105, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

Date: September 10, 2007


SIGNATURE OF PRACTITIONER

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